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In re Application of  
GEIR OLVE SKEIE, ET AL.  
Appl. No.: 10/009,013  
PCT No.: PCT/NO00/00200  
Int. Filing Date: 08 June 2000  
Priority Date: 08 June 1999  
Agent's File Reference: 53550.40  
For: DETECTION OF RYANDIONE RECEPTOR  
ANTIBODIES

DECISION UNDER  
37 CFR 1.181

This Office is in receipt of applicants' 06 November 2003 communication, which is being treated as a petition under 37 CFR 1.181 requesting that the "NOTICE OF ABANDONMENT UNDER 37 CFR 1.53(f) OR (g)" be vacated. No petition fee is required. The petition is GRANTED.

**BACKGROUND**

On 06 December 2001, applicants filed U.S. application 10/009,013 as a national stage entry of international application PCT/NO00/00200, which claimed priority to a Norwegian application filed 08 June 1999. An oath/declaration and a sequence listing in computer readable form did not accompany the original application papers.

On 13 February 2002, applicants filed an executed declaration and surcharge in the amount of \$65.

On 08 March 2002, the United States Patent and Trademark Office (USPTO) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) indicating that an oath/declaration, surcharge and a copy of the sequence listing in computer readable form were required and that the declaration was not executed. It is clear from the application file that the declaration filed 13 February 2002 was not matched with the application until after the mailing of the Form PCT/DO/EO/905.

On 09 April 2002, the USPTO mailed a "NOTIFICATION OF DEFECTIVE RESPONSE" (Form PCT/DO/EO/916) indicating that a copy of the sequence listing in

computer readable form as required under 37 CFR 1.821(e) was missing. Applicants were accorded one month from the mailing date of the Form PCT/DO/EO/916 to file a proper response.

On 03 May 2002, applicants filed a response to the Form PCT/DO/EO/916 forwarding a computer readable form, a statement under 37 CFR 1.821(e) and a paper copy of the sequence listing.

On 04 June 2002, the USPTO mailed a "NOTIFICATION OF DEFECTIVE RESPONSE" (Form PCT/DO/EO/916) indicating that the copy of the computer readable form was found to be damaged and/or unreadable. The Notice further indicates that a CRF Problem Report was attached thereto.

On 12 June 2002, applicants filed a "Request For Clarification Of Notification Of Defective Response" alleging non-receipt of the CRF Problem Report issued 04 June 2002.

On 01 July 2002, applicants submitted a computer readable form to replace the damaged disk filed on 03 May 2002.

On 06 February 2003, a new Form PCT/DO/EO/916 and a "WITHDRAWAL OF PREVIOUSLY SENT NOTICE" were mailed.

On 14 March 2003, the USPTO mailed a "NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g).

On 06 November 2003, applicants filed the present petition via facsimile.

## DISCUSSION

### I. Defective Notification

It is clear from the application file that the executed declaration filed 13 February 2002 was not matched to the file until after the mailing of the Form PCT/DO/EO/905. As such, the indication in the Form PCT/DO/EO/905 that the declaration is not executed is in error and is hereby vacated.

In addition, the "NOTIFICATION OF DEFECTIVE RESPONSE" (Form PCT/DO/EO/916) and the "WITHDRAWAL OF PREVIOUSLY SENT NOTICE" mailed 06 February 2003 are defective. The "WITHDRAWAL OF PREVIOUSLY SENT NOTICE" indicates that the "Acceptance Notice" mailed on 04 June 2002 was sent in error, that a "corrected Notice is enclosed" and that the time period for reply was for the mail date of the enclosed "Notice". However, an "Acceptance Notice" (i.e., a Form PCT/DO/EO/903") was never mailed in the present case. Accordingly, the Office communications mailed 06 February 2003 are defective in that it is unclear as to what has been vacated and what time periods for reply apply.

## II. Defective Declaration

The declaration filed 13 February 2002 is defective in that it is not fully legible. In addition, the declaration includes two page "2's" each executed by different inventors. This suggests that the declaration submitted to the Office was compiled from separately executed declarations. The complete copy of the declaration executed by each inventor must be submitted. A declaration compiled from pages of separately executed declarations is not proper. A new oath or declaration is required.

## III. Additional Matters

The 21 February 2003 communication referred to in the present petition is not of record in the application file.

Additionally, applicant must file a replacement Sequence Listing in computer readable form (CRF). The CRF previously sent to the Office appears to have been damaged as a consequence of the treatment of mail directed to the "20231" zip code.

## CONCLUSION

Accordingly, applicants' petition to withdraw the holding of abandonment is **GRANTED**.

The present application is being sent to the DO/EO/US for the mailing of a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) requiring a new oath/declaration and CRF.



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